

EXHIBIT 3

Thornburgh, John (ATR)

From: Thornburgh, John (ATR)
Sent: Monday, October 21, 2024 9:17 PM
To: Robin.Gushman@lw.com; Leah.Wisser@lw.com
Cc: Markel, Arianna (ATR); Roualet, Jennie (ATR); McLellan, Michael (ATR); Licht, Sarah (ATR); Cohen, Alex (ATR); Sweeney, Bonny (ATR); Huppert, Matthew (ATR); Sinkler, Chinita M. (ATR); Van Kirk, Lorraine (ATR); Kim, Jennifer (ATR); LNExecCommittee@ncdoj.gov; Tim.O'Mara@LW.com; Al.Pfeiffer@lw.com; Andrew.Gass@lw.com; Jennifer.Giordano@lw.com; Kelly.Fayne@lw.com; Lindsey.Champlin@lw.com; dmarriott@cravath.com; LMoskowitz@cravath.com; jweiss@cravath.com; npeles@cravath.com; Charlie.Sprague@lw.com
Subject: RE: U.S. v. LN - Plaintiffs' Proposed Custodian List
Attachments: LN - Plaintiffs' Proposed Search Terms For Defs TAR - 10.21.2024.pdf

Robin,

Plaintiffs are available to meet and confer tomorrow at 5 PM ET. Please send a dial in.

Plaintiffs have significant concerns that Defendants continue to propose that discovery be arbitrarily limited to the number of documents Defendants' currently-employed contract attorneys can review between October 3, 2024, and January 15, 2025. As Defendants have acknowledged, Defendants' view on the proper scope of discovery is based on nothing more than a mechanical math exercise determined by the number of working days between October 3, 2024, and January 15, 2025, and Defendants' current number of attorney reviewers working on the matter. Defendants acknowledged on our last meet and confer that had the Court set a substantial completion deadline further in the future—or had Defendants started reviewing documents earlier in this litigation—the number of documents Defendants would view as reasonable to review to fulfill their discovery obligations would automatically change. Such an arbitrary approach to discovery is inconsistent with Defendants' obligations under the Federal Rules.

Similarly, Plaintiffs do not think that Defendants' plan to have attorneys review every document for responsiveness is appropriate in this litigation given the expedited discovery timeline agreed to by the parties and set by the Court. At the September 27 conference, the Court urged the parties to use "technological solutions or refined search terms" to "cut through some of the attorney hours" described by Defendants' counsel. Plaintiffs are providing refined search terms, attached, but Defendants' current plan to *only* utilize TAR for document review prioritization is inconsistent with the Court's instruction, particularly when there are other TAR workflows available that would not require Defendants' attorneys to review every document. Defendants' attorney-intensive plan is also at odds with Defendants' own strenuous burden and cost objections.

Nevertheless, if Defendants insist on utilizing a TAR process that requires an attorney to review every document before it is produced to Plaintiffs, our proposed interim deadlines—including below—reflect Plaintiffs' position that Defendants must dramatically increase the scale of their attorney review workflow to better match the scope of relevant discovery this litigation, the importance of the issues and relief at stake, Defendants' exclusive access to their own documents, Defendants' significant financial resources, and the need for responsive discovery to resolve this case. We wish to discuss these interim proposed deadlines with Defendants on our meet and confer tomorrow.

Plaintiffs are providing the attached proposed search terms for use with TAR at Defendants' request. Plaintiffs do not think utilizing search terms in connection with TAR is common or necessary, but we have provided them to facilitate a compromise and keep discovery moving. Plaintiffs' willingness to utilize any proposed search terms in combination with TAR is dependent on Defendants agreeing to utilize a reasonable process for validating the search terms against the full custodial collection universe, rather than the culled set of documents after search terms are applied. Plaintiffs also anticipate the parties further discussing a specific workflow for text messages and internal company chats; while

Plaintiffs are amenable to such files going through the TAR workflow, Plaintiffs do not agree that Defendants should utilize search terms to cull such documents in the first instance.

Finally, regarding custodians, we ask that Defendants be prepared on our call tomorrow to identify the specific custodians Plaintiffs have proposed that Defendants believe do not have relevant or responsive documents given the claims and defenses at issue in the litigation. We also ask that Defendants explain their position that Defendants need not collect or produce custodial documents prior to January 1, 2017, despite allegations in the Complaint that expressly precede 2017.

<u>Date</u>	<u>Event</u>
10/21/2024	Plaintiffs provide Defendants with proposed search terms to utilize with TAR review.
10/22/2024	Defendants provide Plaintiffs with proposed TAR protocol.
10/24/2024	Utilizing Plaintiffs' narrowed proposed custodian list, Defendants provide Plaintiffs with hit reports (deduplicated at the search term and search phrase level, and by custodian) for Plaintiffs' proposed search terms and any counterproposal terms.
10/25/2024	Plaintiffs provide any revised search terms, as necessary. Plaintiffs provide Defendants with any proposed revisions to TAR protocol.
10/28/2024	Defendants provide Plaintiffs with revised hit reports (deduplicated at the search term and search phrase level, and by custodian) as necessary
10/29/2024	The parties raise any search term / burden issues with the Court. The parties raise any TAR protocol disputes with the Court.
11/1/2024	Defendants make initial rolling production of responsive custodial documents from the approximately 600,000 documents "left over" from Plaintiffs' pre-Complaint investigation.
11/8/2024	Defendants will validate their use of search terms by reviewing a random sample of 400 documents in the null set, i.e., documents that do not hit on the search terms, and provide to Plaintiffs information concerning responsiveness and other related metrics.
11/13/2024	Deadline for either party to raise issues with the Court concerning the validation/sampling of proposed search terms.
11/15/2024	Defendants provide first rolling production of responsive documents using search terms plus TAR, based on a targeted review of approximately 400,000 per week, unless Defendant validates a 70% recall before all rolling productions are completed. Defendants continue to provide rolling productions at least every two weeks until January 10, 2024. Defendants also agree to provide a corresponding privilege log within two weeks after each rolling production. If Defendants have failed to achieve a recall rate of at least 70% by January 15, 2025, Defendants must produce out all remaining documents identified by TAR as potentially responsive.
1/20/2025	Defendants provide information sufficient to show that the search methods utilized by Defendants to cull the document universe are validated over the full custodial collection, consistent with Plaintiffs' custodian proposal.

Specifically, Defendants will provide statistics including precision and recall, with a margin of sampling error of 2.5% or lower, for validation sampling that was run against the entire document universe, and will provide a breakdown of those statistics for (1) the TAR population, i.e., documents that were TAR-eligible and hit on search terms; (2) the non-TAR search term hit files, i.e., media files and other data types that hit on search terms but were not suitable for TAR; and (3) the search term non-hit files, i.e., the remaining documents not covered by either of the other two categories.
--

Thanks,

John

From: Robin.Gushman@lw.com <Robin.Gushman@lw.com>

Sent: Monday, October 21, 2024 4:09 PM

To: Thornburgh, John (ATR) <John.Thornburgh@usdoj.gov>; Leah.Wisser@lw.com

Cc: Markel, Arianna (ATR) <Arianna.Markel@usdoj.gov>; Roualet, Jennie (ATR) <Jennifer.Roualet@usdoj.gov>; McLellan, Michael (ATR) <Michael.McLellan@usdoj.gov>; Licht, Sarah (ATR) <Sarah.Licht@usdoj.gov>; Cohen, Alex (ATR) <Alex.Cohen@usdoj.gov>; Sweeney, Bonny (ATR) <Bonny.Sweeney@usdoj.gov>; Huppert, Matthew (ATR) <Matthew.Huppert@usdoj.gov>; Sinkler, Chinita M. (ATR) <Chinita.Sinkler@usdoj.gov>; Van Kirk, Lorraine (ATR) <Lorraine.VanKirk@usdoj.gov>; Kim, Jennifer (ATR) <Jennifer.Kim@usdoj.gov>; LNExecCommittee@ncdoj.gov; Tim.O'Mara@LW.com; Al.Pfeiffer@lw.com; Andrew.Gass@lw.com; Jennifer.Giordano@lw.com; Kelly.Fayne@lw.com; Lindsey.Champlin@lw.com; dmarriott@cravath.com; LMoskowitz@cravath.com; jweiss@cravath.com; npeles@cravath.com; Charlie.Sprague@lw.com

Subject: [EXTERNAL] RE: U.S. v. LN - Plaintiffs' Proposed Custodian List

John,

Defendants are available for a lead trial counsel meet and confer at 2 pm PT tomorrow (10/22). We will separately respond regarding the other issues raised in your email.

Best,
Robin

Robin L. Gushman

LATHAM & WATKINS LLP

505 Montgomery Street | Suite 2000 | San Francisco, CA 94111-6538
D: +1.415.646.7830

From: Thornburgh, John (ATR) <John.Thornburgh@usdoj.gov>

Sent: Friday, October 18, 2024 3:41 PM

To: Gushman, Robin (Bay Area) <Robin.Gushman@lw.com>; Wisser, Leah (DC) <Leah.Wisser@lw.com>

Cc: Markel, Arianna (ATR) <Arianna.Markel@usdoj.gov>; Roualet, Jennie (ATR) <Jennifer.Roualet@usdoj.gov>; McLellan, Michael (ATR) <Michael.McLellan@usdoj.gov>; Licht, Sarah (ATR) <Sarah.Licht@usdoj.gov>; Cohen, Alex (ATR) <Alex.Cohen@usdoj.gov>; Sweeney, Bonny (ATR) <Bonny.Sweeney@usdoj.gov>; Huppert, Matthew (ATR) <Matthew.Huppert@usdoj.gov>; Sinkler, Chinita M. (ATR) <Chinita.Sinkler@usdoj.gov>; Van Kirk, Lorraine (ATR) <Lorraine.VanKirk@usdoj.gov>; Kim, Jennifer (ATR) <Jennifer.Kim@usdoj.gov>; LNExecCommittee@ncdoj.gov; O'Mara, Tim (Bay Area) <Tim.O'Mara@LW.com>; Pfeiffer, Al (Bay Area) <Al.Pfeiffer@lw.com>; Gass, Andrew (Bay Area) <Andrew.Gass@lw.com>; Giordano, Jennifer (DC) <Jennifer.Giordano@lw.com>; Fayne, Kelly (Bay Area) <Kelly.Fayne@lw.com>; Champlin, Lindsey (DC) <Lindsey.Champlin@lw.com>; dmarriott@cravath.com;

LMoskowitz@cravath.com; jweiss@cravath.com; npeles@cravath.com

Subject: RE: U.S. v. LN - Plaintiffs' Proposed Custodian List

Robin,

Thank you for the meet and confer. Plaintiffs anticipate providing Defendants with proposed search terms to potentially utilize with TAR on Monday. Plaintiffs' willingness to agree to search terms in connection with Defendants' use of TAR is dependent on Defendants agreeing to utilize a reasonable process for validating the search terms against the full custodial collection universe, rather than the culled set. Please confirm Defendants are amenable to such a process.

We ask that Defendants let us know as soon as possible whether they are amenable to either of the threading solutions Plaintiffs proposed on our call, specifically, (1) reviewing threaded documents but producing unthreaded documents or (2) reviewing and producing threaded documents but producing metadata with the To, From, Date, and other relevant fields from lesser-included emails. If so, please let us know how implementing either proposal impacts the 11 million document figure associated with a refresh of CID custodians that Defendants have previously described.

Lastly, Plaintiffs request a lead trial counsel meet and confer on Tuesday October 22, 2024, concerning Defendants' custodians and proposed production process.

Thanks,

John

From: Robin.Gushman@lw.com <Robin.Gushman@lw.com>

Sent: Friday, October 18, 2024 3:54 PM

To: Thornburgh, John (ATR) <John.Thornburgh@usdoj.gov>; Leah.Wisser@lw.com

Cc: Markel, Arianna (ATR) <Arianna.Markel@usdoj.gov>; Roualet, Jennie (ATR) <Jennifer.Roualet@usdoj.gov>; McLellan, Michael (ATR) <Michael.McLellan@usdoj.gov>; Licht, Sarah (ATR) <Sarah.Licht@usdoj.gov>; Cohen, Alex (ATR) <Alex.Cohen@usdoj.gov>; Sweeney, Bonny (ATR) <Bonny.Sweeney@usdoj.gov>; Huppert, Matthew (ATR) <Matthew.Huppert@usdoj.gov>; Sinkler, Chinita M. (ATR) <Chinita.Sinkler@usdoj.gov>; Van Kirk, Lorraine (ATR) <Lorraine.VanKirk@usdoj.gov>; Kim, Jennifer (ATR) <Jennifer.Kim@usdoj.gov>; LNExecCommittee@ncdoj.gov; Tim.O'Mara@LW.com; Al.Pfeiffer@lw.com; Andrew.Gass@lw.com; Jennifer.Giordano@lw.com; Kelly.Fayne@lw.com; Lindsey.Champlin@lw.com; dmarrriott@cravath.com; LMoskowitz@cravath.com; jweiss@cravath.com; npeles@cravath.com

Subject: [EXTERNAL] RE: U.S. v. LN - Plaintiffs' Proposed Custodian List

John,

Thank you for your letter. We are reviewing, but in the meantime, we want to respond to certain issues raised in your emails earlier this week. The first two questions in your October 16 email suggest that Plaintiffs misunderstand the TAR 2.0 process Defendants are proposing. In a TAR 2.0 process, a model is trained to prioritize review of documents based on their likely responsiveness to the document requests. The documents are then reviewed for responsiveness, starting with those identified by the model as most likely to be responsive. As the documents are coded for responsiveness, the model is continuously learning and updating its predictions about how likely each of the documents is to be responsive or not and elevating those documents that are most likely to be responsive to the top of the review queue. This process continues until the number of incremental responsive documents drops to a sufficiently low level, at which point review pauses for validation. All coding is performed by human reviewers, and all documents that are ultimately produced as responsive will have been reviewed by a human reviewer.

As explained on our last call, it is common to cull a TAR 2.0 review set using search terms or other methods. That is necessary here due to the volume of documents and the expedited timeframe for document discovery. Accordingly, Defendants propose the following:

- Defendants will review up to 1.5 million documents for responsiveness to Plaintiffs’ custodial document requests. This works out to about 25,000 documents per business day, starting October 3, 2024 (the day contract reviewers began reviewing documents) and ending on December 31, 2024 (building in about two weeks for QC and production).
 - Approximately 600,000 of these documents are left over from the DOJ CID review, which are currently being reviewed.
 - The remaining 900,000 documents will be subject to (1) review utilizing TAR 2.0 and (2) a linear review for documents that are not amenable to TAR analysis.
- During the September 27 hearing, Judge Subramanian made clear that he expected Plaintiffs to “be a little bit rifleshot in terms of what you’re looking for” given the timing and that “you’re not going to get every single piece of paper that’s potentially about the things that are at issue in this case”. Defendants have been clear before, during, and after the hearing that we have a finite amount of time, and documents that can be reviewed in that time, and asked Plaintiffs to identify the “rifleshot” of issues they would like us to focus our review efforts on given the hundreds of thousands of documents Plaintiffs already received during the investigation. As we have made clear, Defendants are willing to prioritize for review the documents Plaintiffs are most interested in, understanding the practical constraints at play here.
 - While Plaintiffs have claimed to “take [our] concerns seriously”, Plaintiffs have declined to meaningfully narrow the scope of what they are seeking. For example, Plaintiffs are still seeking documents from 78 custodians, almost all of which Plaintiffs are proposing to be searched for nearly ten years.
 - Instead of offering insight into where Plaintiffs would like Defendants to focus their discovery efforts, Plaintiffs have largely put the onus on Defendants to suggest the appropriate custodians, search terms and review protocol.
- Accordingly, Defendants propose to identify the 900,000 document review set as follows:
 - Custodians = The “Category 1” custodians identified by Plaintiffs. Defendants are amenable to adding a handful of custodians if Plaintiffs can identify the specific parts of Defendants’ business at issue in the litigation that are not sufficiently covered by the Category 1 custodians.
 - Date Range = 1/1/2023 to 5/23/2024 for DOJ CID custodians; 1/1/2017 to 5/23/2024 for non-DOJ CID custodians.
 - Search Terms = DOJ CID search terms with limited modifications to narrow.
 - Document Types = Emails and attachments, documents hyperlinked in emails, chats, and texts. These document sources are the most likely to be relevant, and given that Defendants are producing hyperlinked attachments, this set will also include many documents stored in other sources.
- Defendants will undertake reasonable best efforts to achieve recall of at least 70% through the TAR process subject to the caveats above.
 - Defendants will follow up with a TAR protocol.

Defendants are also open to identifying the document review set in other ways besides the above. If Plaintiffs would like to reduce the number of custodians, restrict the document population to email and email attachments only, narrow certain CID search terms, reevaluate their position on email threading, or further reduce the date range requested, those are all additional options to narrow the document universe to which Defendants are amenable.

Defendants will provide information regarding Plaintiffs’ remaining questions on our call today.

Best,
Robin

Robin L. Gushman

LATHAM & WATKINS LLP

505 Montgomery Street | Suite 2000 | San Francisco, CA 94111-6538
D: +1.415.646.7830

From: Thornburgh, John (ATR) <John.Thornburgh@usdoj.gov>

Sent: Friday, October 18, 2024 11:09 AM

To: Gushman, Robin (Bay Area) <Robin.Gushman@lw.com>; Wisser, Leah (DC) <Leah.Wisser@lw.com>

Cc: Markel, Arianna (ATR) <Arianna.Markel@usdoj.gov>; Roualet, Jennie (ATR) <Jennifer.Roualet@usdoj.gov>; McLellan, Michael (ATR) <Michael.McLellan@usdoj.gov>; Licht, Sarah (ATR) <Sarah.Licht@usdoj.gov>; Cohen, Alex (ATR) <Alex.Cohen@usdoj.gov>; Sweeney, Bonny (ATR) <Bonny.Sweeney@usdoj.gov>; Huppert, Matthew (ATR) <Matthew.Huppert@usdoj.gov>; Sinkler, Chinita M. (ATR) <Chinita.Sinkler@usdoj.gov>; Van Kirk, Lorraine (ATR) <Lorraine.VanKirk@usdoj.gov>; Kim, Jennifer (ATR) <Jennifer.Kim@usdoj.gov>; LNExecCommittee@ncdoj.gov; O'Mara, Tim (Bay Area) <Tim.O'Mara@LW.com>; Pfeiffer, Al (Bay Area) <Al.Pfeiffer@lw.com>; Gass, Andrew (Bay Area) <Andrew.Gass@lw.com>; Giordano, Jennifer (DC) <Jennifer.Giordano@lw.com>; Fayne, Kelly (Bay Area) <Kelly.Fayne@lw.com>; Champlin, Lindsey (DC) <Lindsey.Champlin@lw.com>; dmarrriott@cravath.com; LMoskowitz@cravath.com; jweiss@cravath.com; npeles@cravath.com

Subject: RE: U.S. v. LN - Plaintiffs' Proposed Custodian List

Robin,

Please see the attached correspondence. We look forward to speaking with you at 4 PM ET.

Thanks,

John

From: Thornburgh, John (ATR)

Sent: Thursday, October 17, 2024 9:31 PM

To: Robin.Gushman@lw.com; Leah.Wisser@lw.com

Cc: Markel, Arianna (ATR) <Arianna.Markel@usdoj.gov>; Roualet, Jennie (ATR) <Jennifer.Roualet@usdoj.gov>; McLellan, Michael (ATR) <Michael.McLellan@usdoj.gov>; Licht, Sarah (ATR) <Sarah.Licht@usdoj.gov>; Cohen, Alex (ATR) <Alex.Cohen@usdoj.gov>; Sweeney, Bonny (ATR) <Bonny.Sweeney@usdoj.gov>; Huppert, Matthew (ATR) <Matthew.Huppert@usdoj.gov>; Sinkler, Chinita M. (ATR) <Chinita.Sinkler@usdoj.gov>; Van Kirk, Lorraine (ATR) <Lorraine.VanKirk@usdoj.gov>; Kim, Jennifer (ATR) <Jennifer.Kim@usdoj.gov>; LNExecCommittee@ncdoj.gov; Tim.O'Mara@LW.com; Al.Pfeiffer@lw.com; Andrew.Gass@lw.com; Jennifer.Giordano@lw.com; Kelly.Fayne@lw.com; Lindsey.Champlin@lw.com; dmarrriott@cravath.com; LMoskowitz@cravath.com; jweiss@cravath.com; npeles@cravath.com

Subject: RE: U.S. v. LN - Plaintiffs' Proposed Custodian List

Robin,

Thanks for your email. In addition to the questions in my email below, we ask that Defendants come to the meet and confer tomorrow prepared to address the extent to which the 11 million document figure that Defendants referenced on our last call accounts for deduping across custodians.

Thanks,

John

From: Robin.Gushman@lw.com <Robin.Gushman@lw.com>

Sent: Thursday, October 17, 2024 3:37 PM

To: Thornburgh, John (ATR) <John.Thornburgh@usdoj.gov>; Leah.Wisser@lw.com

Cc: Markel, Arianna (ATR) <Arianna.Markel@usdoj.gov>; Roualet, Jennie (ATR) <Jennifer.Roualet@usdoj.gov>; McLellan, Michael (ATR) <Michael.McLellan@usdoj.gov>; Licht, Sarah (ATR) <Sarah.Licht@usdoj.gov>; Cohen, Alex (ATR) <Alex.Cohen@usdoj.gov>; Sweeney, Bonny (ATR) <Bonny.Sweeney@usdoj.gov>; Huppert, Matthew (ATR)

<Matthew.Huppert@usdoj.gov>; Sinkler, Chinita M. (ATR) <Chinita.Sinkler@usdoj.gov>; Van Kirk, Lorraine (ATR) <Lorraine.VanKirk@usdoj.gov>; Kim, Jennifer (ATR) <Jennifer.Kim@usdoj.gov>; LNExecCommittee@ncdoj.gov; Tim.O'Mara@LW.com; Al.Pfeiffer@lw.com; Andrew.Gass@lw.com; Jennifer.Giordano@lw.com; Kelly.Fayne@lw.com; Lindsey.Champlin@lw.com; dmarrriott@cravath.com; LMoskowitz@cravath.com; jweiss@cravath.com; npeles@cravath.com

Subject: [EXTERNAL] RE: U.S. v. LN - Plaintiffs' Proposed Custodian List

John,

We are available for a meet and confer tomorrow (Friday) from 2-3 pm ET or 4-5 pm ET to continue discussing these issues.

Thanks,
Robin

Robin L. Gushman

LATHAM & WATKINS LLP

505 Montgomery Street | Suite 2000 | San Francisco, CA 94111-6538
D: +1.415.646.7830

From: Thornburgh, John (ATR) <John.Thornburgh@usdoj.gov>

Sent: Wednesday, October 16, 2024 6:30 PM

To: Gushman, Robin (Bay Area) <Robin.Gushman@lw.com>; Wisser, Leah (DC) <Leah.Wisser@lw.com>

Cc: Markel, Arianna (ATR) <Arianna.Markel@usdoj.gov>; Roualet, Jennie (ATR) <Jennifer.Roualet@usdoj.gov>; McLellan, Michael (ATR) <Michael.McLellan@usdoj.gov>; Licht, Sarah (ATR) <Sarah.Licht@usdoj.gov>; Cohen, Alex (ATR) <Alex.Cohen@usdoj.gov>; Sweeney, Bonny (ATR) <Bonny.Sweeney@usdoj.gov>; Huppert, Matthew (ATR) <Matthew.Huppert@usdoj.gov>; Sinkler, Chinita M. (ATR) <Chinita.Sinkler@usdoj.gov>; Van Kirk, Lorraine (ATR) <Lorraine.VanKirk@usdoj.gov>; Kim, Jennifer (ATR) <Jennifer.Kim@usdoj.gov>; LNExecCommittee@ncdoj.gov; O'Mara, Tim (Bay Area) <Tim.O'Mara@LW.com>; Pfeiffer, Al (Bay Area) <Al.Pfeiffer@lw.com>; Gass, Andrew (Bay Area) <Andrew.Gass@lw.com>; Giordano, Jennifer (DC) <Jennifer.Giordano@lw.com>; Fayne, Kelly (Bay Area) <Kelly.Fayne@lw.com>; Champlin, Lindsey (DC) <Lindsey.Champlin@lw.com>; dmarrriott@cravath.com; LMoskowitz@cravath.com; jweiss@cravath.com; npeles@cravath.com

Subject: RE: U.S. v. LN - Plaintiffs' Proposed Custodian List

Robin,

Thank you for the call earlier today. As discussed, we think it would be prudent for the parties to schedule a meet and confer for no later than Friday afternoon to keep things moving on discovery. If Defendants are unavailable on Friday, we can also make ourselves available tomorrow after 5 PM ET.

Defendants indicated that they agree to utilize TAR, and that you would provide a proposed TAR protocol as soon as possible. Plaintiffs ask Defendants to provide their TAR proposal by Friday.

We also ask that Defendants be prepared to provide answers to the following questions by Friday, either on our next meet and confer or in writing via email:

1. Please confirm the TAR protocol Defendants envision does not anticipate having attorneys review every document prior to production.
2. To the extent Defendants anticipate conducting a human review QC of certain documents indicated by TAR to be responsive, unrelated to informing the recall rate consistent with a TAR protocol, please explain the process Defendants are envisioning including the number of documents that would be subject to such a workflow.

3. Defendants indicated their willingness to utilize alternative methods, other than search terms, to narrow the document universe prior to TAR. As we requested on Monday evening, please share Defendants' specific proposal(s), including custodians (or number of custodians) and/or document types.
4. Defendants indicated that reviewing approximately 1.3 million documents is reasonable to fulfill their discovery obligations for this litigation. To the extent this is incorrect, please let us know by Friday.
5. How many of the approximately 600,000 documents left over from the investigation that Defendants' contract attorneys have reviewed to date, the total number of attorneys currently reviewing documents, and the approximate number of documents being reviewed each day.
6. On custodians, please provide the following information:
 - a. For each of the proposed custodians previously employed by a company Live Nation acquired, let us know whether LN has custody and/or control of the individual's documents before their employment at LN.
 - b. A description of the roles and responsibilities of regional presidents and vice presidents within Live Nation, and in particular, whether they primarily or exclusively work on artists and/or venues with certain characteristics.
 - c. The roles and responsibilities of the three individuals who report up to David Marcus and were added to Plaintiffs' proposed custodian list today.
 - d. The current status of collecting the custodial files for individuals on Plaintiffs' proposed custodian list who were not custodians during the investigation.

Lastly, as I mentioned on our call, Plaintiffs anticipate providing you with a revised custodian proposal by Friday.

Thanks,

John

From: Thornburgh, John (ATR)

Sent: Wednesday, October 16, 2024 12:35 PM

To: Robin.Gushman@lw.com; Leah.Wisser@lw.com

Cc: Markel, Arianna (ATR) <Arianna.Markel@usdoj.gov>; Roualet, Jennie (ATR) <Jennifer.Roualet@usdoj.gov>; McLellan, Michael (ATR) <Michael.McLellan@usdoj.gov>; Licht, Sarah (ATR) <Sarah.Licht@usdoj.gov>; Cohen, Alex (ATR) <Alex.Cohen@usdoj.gov>; Sweeney, Bonny (ATR) <Bonny.Sweeney@usdoj.gov>; Huppert, Matthew (ATR) <Matthew.Huppert@usdoj.gov>; Sinkler, Chinita M. (ATR) <Chinita.Sinkler@usdoj.gov>; Van Kirk, Lorraine (ATR) <Lorraine.VanKirk@usdoj.gov>; Kim, Jennifer (ATR) <Jennifer.Kim@usdoj.gov>; LNExecCommittee@ncdoj.gov; Tim.O'Mara@LW.com; Al.Pfeiffer@lw.com; Andrew.Gass@lw.com; Jennifer.Giordano@lw.com; Kelly.Fayne@lw.com; Lindsey.Champlin@lw.com; dmarrriott@cravath.com; LMoskowitz@cravath.com; jweiss@cravath.com; npeles@cravath.com

Subject: RE: U.S. v. LN - Plaintiffs' Proposed Custodian List

Robin,

Please find attached Plaintiffs' revised custodian proposal. As reflected in the attached chart, Plaintiffs have narrowed our custodian proposal, both by removing some proposed custodians and indicating that we are amenable to a limited custodial collection for several individuals. Based on our conversation on Monday, we also added a small number of individuals, who appear at the end of the chart.

Thanks,

John

From: Thornburgh, John (ATR)

Sent: Tuesday, October 15, 2024 2:47 PM

To: Robin.Gushman@lw.com; Leah.Wisser@lw.com

Cc: Markel, Arianna (ATR) <Arianna.Markel@usdoj.gov>; Roualet, Jennie (ATR) <Jennifer.Roualet@usdoj.gov>; McLellan, Michael (ATR) <Michael.McLellan@usdoj.gov>; Licht, Sarah (ATR) <Sarah.Licht@usdoj.gov>; Cohen, Alex (ATR) <Alex.Cohen@usdoj.gov>; Sweeney, Bonny (ATR) <Bonny.Sweeney@usdoj.gov>; Huppert, Matthew (ATR) <Matthew.Huppert@usdoj.gov>; Sinkler, Chinita M. (ATR) <Chinita.Sinkler@usdoj.gov>; Van Kirk, Lorraine (ATR) <Lorraine.VanKirk@usdoj.gov>; Kim, Jennifer (ATR) <Jennifer.Kim@usdoj.gov>; LNExecCommittee@ncdoj.gov; Tim.O'Mara@LW.com; Al.Pfeiffer@lw.com; Andrew.Gass@lw.com; Jennifer.Giordano@lw.com; Kelly.Fayne@lw.com; Lindsey.Champlin@lw.com; dmarrriott@cravath.com; LMoskowitz@cravath.com; jweiss@cravath.com; npeles@cravath.com

Subject: RE: U.S. v. LN - Plaintiffs' Proposed Custodian List

Robin,

1:30 PM ET works for us. Can you please send a dial in?

Thanks,

John

From: Robin.Gushman@lw.com <Robin.Gushman@lw.com>

Sent: Tuesday, October 15, 2024 2:23 PM

To: Thornburgh, John (ATR) <John.Thornburgh@usdoj.gov>; Leah.Wisser@lw.com

Cc: Markel, Arianna (ATR) <Arianna.Markel@usdoj.gov>; Roualet, Jennie (ATR) <Jennifer.Roualet@usdoj.gov>; McLellan, Michael (ATR) <Michael.McLellan@usdoj.gov>; Licht, Sarah (ATR) <Sarah.Licht@usdoj.gov>; Cohen, Alex (ATR) <Alex.Cohen@usdoj.gov>; Sweeney, Bonny (ATR) <Bonny.Sweeney@usdoj.gov>; Huppert, Matthew (ATR) <Matthew.Huppert@usdoj.gov>; Sinkler, Chinita M. (ATR) <Chinita.Sinkler@usdoj.gov>; Van Kirk, Lorraine (ATR) <Lorraine.VanKirk@usdoj.gov>; Kim, Jennifer (ATR) <Jennifer.Kim@usdoj.gov>; LNExecCommittee@ncdoj.gov; Tim.O'Mara@LW.com; Al.Pfeiffer@lw.com; Andrew.Gass@lw.com; Jennifer.Giordano@lw.com; Kelly.Fayne@lw.com; Lindsey.Champlin@lw.com; dmarrriott@cravath.com; LMoskowitz@cravath.com; jweiss@cravath.com; npeles@cravath.com

Subject: [EXTERNAL] RE: U.S. v. LN - Plaintiffs' Proposed Custodian List

John,

We are available for a meet and confer to discuss the below issues tomorrow (Wednesday, 10/16) between 1-3 pm ET. Please let us know if a time in that window works.

Thanks,

Robin

Robin L. Gushman

LATHAM & WATKINS LLP

505 Montgomery Street | Suite 2000 | San Francisco, CA 94111-6538

D: +1.415.646.7830

From: Thornburgh, John (ATR) <John.Thornburgh@usdoj.gov>

Sent: Monday, October 14, 2024 8:21 PM

To: Gushman, Robin (Bay Area) <Robin.Gushman@lw.com>; Wisser, Leah (DC) <Leah.Wisser@lw.com>

Cc: Markel, Arianna (ATR) <Arianna.Markel@usdoj.gov>; Roualet, Jennie (ATR) <Jennifer.Roualet@usdoj.gov>; McLellan, Michael (ATR) <Michael.McLellan@usdoj.gov>; Licht, Sarah (ATR) <Sarah.Licht@usdoj.gov>; Cohen, Alex (ATR) <Alex.Cohen@usdoj.gov>; Sweeney, Bonny (ATR) <Bonny.Sweeney@usdoj.gov>; Huppert, Matthew (ATR) <Matthew.Huppert@usdoj.gov>; Sinkler, Chinita M. (ATR) <Chinita.Sinkler@usdoj.gov>; Van Kirk, Lorraine (ATR) <Lorraine.VanKirk@usdoj.gov>; Kim, Jennifer (ATR) <Jennifer.Kim@usdoj.gov>; LNExecCommittee@ncdoj.gov; O'Mara, Tim (Bay Area) <Tim.O'Mara@LW.com>; Pfeiffer, Al (Bay Area) <Al.Pfeiffer@lw.com>; Gass, Andrew (Bay Area) <Andrew.Gass@lw.com>; Giordano, Jennifer (DC) <Jennifer.Giordano@lw.com>; Fayne, Kelly (Bay Area) <Kelly.Fayne@lw.com>; Champlin, Lindsey (DC) <Lindsey.Champlin@lw.com>; dmarriott@cravath.com; LMoskowitz@cravath.com; jweiss@cravath.com; npeles@cravath.com

Subject: RE: U.S. v. LN - Plaintiffs' Proposed Custodian List

Robin,

Thank you for the call earlier today. As discussed, please let us know when Defendants are available on Wednesday for a meet and confer to further discuss TAR and custodians. Plaintiffs anticipate providing Defendants with a revised custodian proposal ahead of a Wednesday call.

Below are some specific follow ups that we ask that Defendants be prepared to discuss on Wednesday.

TAR: We are glad that Defendants are open to using TAR 2.0 and recognize that doing so will reduce Defendants' burdens and costs while increasing the speed of review. If Defendants agree to use TAR 2.0, Plaintiffs will propose an appropriate TAR 2.0 protocol no later than early next week. When discussing TAR, you repeatedly stated that Defendants would need to "reduce the total universe of documents to which TAR is applied" in order to comply with the substantial production deadline.

1. What is Defendants' basis for believing that it is necessary to first restrict the total universe of documents to which TAR is applied?
2. In particular, what document metrics (e.g., number of documents reviewed per day, model speed, size of the final document universe, etc.) are Defendants assuming when asserting that the document universe should be narrowed before TAR 2.0 is applied?

Defendants also proposed limiting the custodians and/or certain document categories in order to reduce the document universe (as opposed to first applying search terms). Plaintiffs need more information about Defendants' proposal in order to evaluate it.

3. Please share with us Defendants' proposal, such as which custodians (or number of custodians) and/or document types Defendants propose to exclude before using TAR 2.0, and why Defendants believe this is appropriate.

Custodians:

4. For custodians that were previously part of a company that Live Nation acquired, please confirm whether Defendants have custody or control of any of such custodian's documents prior to Live Nation's acquisition of the company in question. Understanding whether Defendants have custody or control of such documents is critical to moving our custodian discussions forward.
5. Please identify anyone that reports up to David Marcus who has responsibility for dynamic pricing strategy and/or implementation for specific tours or shows particularly in Live Nation controlled amphitheaters.
6. Please confirm whether Defendants have custody or control of documents and communications utilized by Messrs. Maffei and Hollingsworth for Live Nation business.
7. Please confirm whether there are any individuals within Live Nation promotions with primary responsibility for comedian shows and/or tours, including in Live Nation controlled amphitheaters.

8. Please confirm whether Defendants have undertaken a reasonable inquiry to determine whether there are any employees of Defendants that may have relevant, unique, and responsive documents that are not otherwise on Plaintiffs' proposed custodian list, and if so, the identity of any such individuals.

Thanks,

John

From: Robin.Gushman@lw.com <Robin.Gushman@lw.com>

Sent: Friday, October 11, 2024 4:00 PM

To: Roualet, Jennie (ATR) <Jennifer.Roualet@usdoj.gov>; Thornburgh, John (ATR) <John.Thornburgh@usdoj.gov>; Leah.Wisser@lw.com

Cc: Markel, Arianna (ATR) <Arianna.Markel@usdoj.gov>; McLellan, Michael (ATR) <Michael.McLellan@usdoj.gov>; Licht, Sarah (ATR) <Sarah.Licht@usdoj.gov>; Cohen, Alex (ATR) <Alex.Cohen@usdoj.gov>; Sweeney, Bonny (ATR) <Bonny.Sweeney@usdoj.gov>; Huppert, Matthew (ATR) <Matthew.Huppert@usdoj.gov>; Sinkler, Chinita M. (ATR) <Chinita.Sinkler@usdoj.gov>; Van Kirk, Lorraine (ATR) <Lorraine.VanKirk@usdoj.gov>; Kim, Jennifer (ATR) <Jennifer.Kim@usdoj.gov>; LNExecCommittee@ncdoj.gov; Tim.O'Mara@LW.com; Al.Pfeiffer@lw.com; Andrew.Gass@lw.com; Jennifer.Giordano@lw.com; Kelly.Fayne@lw.com; Lindsey.Champlin@lw.com; dmarriott@cravath.com; LMoskowitz@cravath.com; jweiss@cravath.com; npeles@cravath.com

Subject: [EXTERNAL] RE: U.S. v. LN - Plaintiffs' Proposed Custodian List

Jennie,

Thanks for sending the draft letter. We included a few edits in the attached, as reflected in the redline. You have our sign-off to file this version.

Defendants are available on Monday at 3 pm ET to discuss custodians and TAR.

Best,
Robin

Robin L. Gushman

LATHAM & WATKINS LLP

505 Montgomery Street | Suite 2000 | San Francisco, CA 94111-6538
D: +1.415.646.7830

From: Roualet, Jennie (ATR) <Jennifer.Roualet@usdoj.gov>

Sent: Friday, October 11, 2024 8:28 AM

To: Gushman, Robin (Bay Area) <Robin.Gushman@lw.com>; Thornburgh, John (ATR) <John.Thornburgh@usdoj.gov>; [Wisser, Leah \(DC\) <Leah.Wisser@lw.com>](mailto:Leah.Wisser@lw.com)

Cc: Markel, Arianna (ATR) <Arianna.Markel@usdoj.gov>; McLellan, Michael (ATR) <Michael.McLellan@usdoj.gov>; Licht, Sarah (ATR) <Sarah.Licht@usdoj.gov>; Cohen, Alex (ATR) <Alex.Cohen@usdoj.gov>; Sweeney, Bonny (ATR) <Bonny.Sweeney@usdoj.gov>; Huppert, Matthew (ATR) <Matthew.Huppert@usdoj.gov>; Sinkler, Chinita M. (ATR) <Chinita.Sinkler@usdoj.gov>; Van Kirk, Lorraine (ATR) <Lorraine.VanKirk@usdoj.gov>; Kim, Jennifer (ATR) <Jennifer.Kim@usdoj.gov>; LNExecCommittee@ncdoj.gov; O'Mara, Tim (Bay Area) <Tim.O'Mara@LW.com>; Pfeiffer, Al (Bay Area) <Al.Pfeiffer@lw.com>; Gass, Andrew (Bay Area) <Andrew.Gass@lw.com>; Giordano, Jennifer (DC) <Jennifer.Giordano@lw.com>; Fayne, Kelly (Bay Area) <Kelly.Fayne@lw.com>; Champlin, Lindsey (DC) <Lindsey.Champlin@lw.com>; dmarriott@cravath.com; LMoskowitz@cravath.com; jweiss@cravath.com; npeles@cravath.com

Subject: RE: U.S. v. LN - Plaintiffs' Proposed Custodian List

Robin,

Thanks for your email. Plaintiffs are available for a meet and confer on Monday at 3 PM ET to discuss custodians. We would also like to discuss TAR.

Attached please find a draft joint letter to file today.

Best,
Jennie

Jennie Roualet

Trial Attorney | Antitrust Division

(202) 894-4255

Jennie.Roualet@usdoj.gov

From: Robin.Gushman@lw.com <Robin.Gushman@lw.com>

Sent: Thursday, October 10, 2024 8:13 PM

To: Thornburgh, John (ATR) <John.Thornburgh@usdoj.gov>; Leah.Wisser@lw.com

Cc: Roualet, Jennie (ATR) <Jennifer.Roualet@usdoj.gov>; Markel, Arianna (ATR) <Arianna.Markel@usdoj.gov>; McLellan, Michael (ATR) <Michael.McLellan@usdoj.gov>; Licht, Sarah (ATR) <Sarah.Licht@usdoj.gov>; Cohen, Alex (ATR) <Alex.Cohen@usdoj.gov>; Sweeney, Bonny (ATR) <Bonny.Sweeney@usdoj.gov>; Huppert, Matthew (ATR) <Matthew.Huppert@usdoj.gov>; Sinkler, Chinita M. (ATR) <Chinita.Sinkler@usdoj.gov>; Van Kirk, Lorraine (ATR) <Lorraine.VanKirk@usdoj.gov>; Kim, Jennifer (ATR) <Jennifer.Kim@usdoj.gov>; LNExecCommittee@ncdoj.gov; Tim.O'Mara@LW.com; Al.Pfeiffer@lw.com; Andrew.Gass@lw.com; Jennifer.Giordano@lw.com; Kelly.Fayne@lw.com; Lindsey.Champlin@lw.com; dmarrriott@cravath.com; LMoskowitz@cravath.com; jweiss@cravath.com; npeles@cravath.com

Subject: [EXTERNAL] RE: U.S. v. LN - Plaintiffs' Proposed Custodian List

John,

We disagree with your characterization of Defendants' discovery efforts to date and refer back to our October 9 letter. Defendants are similarly interested in "moving the ball forward," and respond as follows to certain points raised in your email:

- **Custodians:** Thank you for sending the updated proposed custodian list and the proposed groupings. While we continue to investigate the roles and responsibilities of the (over 100) individuals on the list, we will be prepared to discuss most of the proposed custodians on our next meet and confer. We are happy to schedule that call for Tuesday (October 15) if Plaintiffs are not available on Monday.
- **RFP 2 Privilege Log:** We will provide a privilege log by October 18. The log will reflect communications with counsel for Azoff, OVG, and OVG owner Silver Lake. We are not presently aware of any responsive communications with any other entities or their counsel; specifically, we're not aware of any communications with AEG or its counsel that are responsive.
- **RFPs 8-9 Privilege Log:** To the extent there are any privileged documents responsive to RFP 8 or 9, we will produce a privilege log by October 28.
- **RFPs 10-13:** We separately responded earlier today regarding these data requests.
- **TAR:** We are open to using TAR to streamline the custodial review, subject to agreement on a reasonable protocol. Subject to further discussion, we do think that some set of baseline search terms will be necessary to reduce the total universe of documents to which TAR is applied. Otherwise, the volume of documents will be unworkable, even for a technology assisted review.

- **Discovery Conference:** Defendants agree to propose November 12 for an in-person hearing, and October 29 or 30 for a hearing the parties can attend remotely.

Best,
Robin

Robin L. Gushman

LATHAM & WATKINS LLP

505 Montgomery Street | Suite 2000 | San Francisco, CA 94111-6538
D: +1.415.646.7830

From: Thornburgh, John (ATR) <John.Thornburgh@usdoj.gov>

Sent: Thursday, October 10, 2024 9:51 AM

To: Wisser, Leah (DC) <Leah.Wisser@lw.com>

Cc: Roualet, Jennie (ATR) <Jennifer.Roualet@usdoj.gov>; Markel, Arianna (ATR) <Arianna.Markel@usdoj.gov>; McLellan, Michael (ATR) <Michael.McLellan@usdoj.gov>; Licht, Sarah (ATR) <Sarah.Licht@usdoj.gov>; Cohen, Alex (ATR) <Alex.Cohen@usdoj.gov>; Sweeney, Bonny (ATR) <Bonny.Sweeney@usdoj.gov>; Huppert, Matthew (ATR) <Matthew.Huppert@usdoj.gov>; Sinkler, Chinita M. (ATR) <Chinita.Sinkler@usdoj.gov>; Van Kirk, Lorraine (ATR) <Lorraine.VanKirk@usdoj.gov>; Kim, Jennifer (ATR) <Jennifer.Kim@usdoj.gov>; LNExecCommittee@ncdoj.gov; Gushman, Robin (Bay Area) <Robin.Gushman@lw.com>; O'Mara, Tim (Bay Area) <Tim.O'Mara@LW.com>; Pfeiffer, Al (Bay Area) <Al.Pfeiffer@lw.com>; Gass, Andrew (Bay Area) <Andrew.Gass@lw.com>; Giordano, Jennifer (DC) <Jennifer.Giordano@lw.com>; Fayne, Kelly (Bay Area) <Kelly.Fayne@lw.com>; Champlin, Lindsey (DC) <Lindsey.Champlin@lw.com>; dmarrriott@cravath.com; LMoskowitz@cravath.com; jweiss@cravath.com; npeles@cravath.com

Subject: RE: U.S. v. LN - Plaintiffs' Proposed Custodian List

Counsel:

We were surprised that your letter, instead of providing new custodian information or proposed paths forward for ensuring Defendants fulfill their discovery obligations under the Federal Rules, merely repeats the same document metrics and arbitrary 100-contract-attorney guidepost for what Defendants believe constitutes reasonable discovery in this litigation that you have previously described. In particular, we are puzzled by Defendants' continued failure to provide *any* information about our proposed custodians' roles at Defendants' companies – information which, as we have explained, is necessary before we can agree to any narrowed custodial set.

As you recognize, Plaintiffs have been *consistent* since discovery started that Defendants' custodians from the investigation should be the floor for their custodians in the litigation. This is because, as Plaintiffs have explained several times previously, the claims and allegations at issue in this litigation encompass, but are also broader than, the subject-matter at issue—and therefore documents collected—in Plaintiffs' pre-complaint investigation. As just one example, Plaintiffs' pre-complaint investigation did not focus on Defendants' monopolization of amphitheaters, but that is a claim brought in this litigation.

It is for this reason that Plaintiffs proposed on August 20 that the parties begin discussing custodians and search terms, which Defendants insisted on delaying. It is also why Plaintiffs pressed Defendants for weeks to produce organization charts in response to Plaintiffs' July 15 RFPs, which Defendants only belatedly provided on September 10.

We disagree that Defendants have undertaken their discovery obligations in this litigation with any sort of urgency, as you claim in your letter, for this reason: Despite having more than a dozen of Plaintiffs requests for production since July 15, and dozens more since August 7, Defendants have produced a grand total of 10 documents (and no data) in this litigation to date.

Nevertheless, as described in our Monday October 7 letter, Plaintiffs are interested in moving the ball forward. For this reason, please find attached to this email (1) Plaintiffs' RFPs seeking custodial documents and proposed custodial groups for each RFP and (2) a list of proposed custodians and corresponding custodial groups. Plaintiffs' proposed RFP custodial groupings would significantly narrow the number of custodians that would need to be searched for any given RFP and corresponding search terms. In the second document containing proposed custodians, we have removed Greg Economou, Kathy Willard, and Mark Fowlie as proposed custodians. It is our understanding that although Greg Economou and Kathy Willard were listed as custodians during the investigation, Plaintiffs never actually received any documents from their custodial files. We are also amenable to discussing a limited collection for Patti Kim, without the need for any of her predecessors.

In addition, and as explained previously, Plaintiffs are **not** proposing that all individuals in the list of proposed custodians ultimately become custodians in this litigation. We have identified the individuals we think are most likely to have responsive information given the claims and defenses at issue in the litigation, and we are seeking input from Defendants to ensure we identify the right people. As we expressed in our last meet and confer, Defendants are in the best position to offer more detailed information on the responsibilities of the custodians Plaintiffs have proposed, including the extent to which any such individuals are unlikely to have responsive documents. Defendants have neglected to provide such information to date. Plaintiffs ultimately expect that the right number of custodians for this litigation—given the claims at issue, importance, and timeline—will fall somewhere between the number of custodians included in Plaintiffs' pre-complaint investigation and the total number of custodians listed in the attached document.

While Plaintiffs are amenable to a meet and confer on Monday—a federal holiday—to discuss custodians, we ask that Defendants confirm in writing no later than tomorrow that they will be prepared to discuss proposed custodians in detail and next steps for moving custodial discovery forward. If Defendants have no intention of discussing specific proposed custodians and answering Plaintiffs related questions, we do not think such a meet and confer will be constructive. And in which case, Plaintiffs think we are at an impasse, and we intend to seek relief from the Court.

Regarding the meet and confer last night, we understand the following:

- Defendants will provide a privilege log in connection with RFP No. 2 no later than Friday October 18, 2024;
- Defendants are not aware of any withheld communications responsive to RFP No. 2 with any third parties except Azoff, OVG, and AEG;
- Defendants will provide a privilege log for Plaintiffs' RFPs Nos. 8-9 by October 28;
- Defendants will provide today a written plan for producing data responsive to RFPs 10-13, which will make clear Defendants will substantially complete of U.S. data responsive to RFPs 10, 11, and 13 by October 28;
- Defendants will inform Plaintiffs by tomorrow whether they are interested in utilizing TAR in connection with this litigation; and
- Defendants agreed that they are currently reviewing the approximately 600,000 documents left over from the investigation for responsiveness to all of Plaintiffs' custodial RFPs, including those focused on secondary ticketing.

Finally, as for our next discovery conference, Plaintiffs are unavailable November 6. If Defendants' only other in-person availability is November 12, Plaintiffs are amenable to offering that date to the court along with October 29 and 30, when Plaintiffs are available to attend in person.

John

From: Leah.Wisser@lw.com <Leah.Wisser@lw.com>

Sent: Wednesday, October 9, 2024 7:45 PM

To: Thornburgh, John (ATR) <John.Thornburgh@usdoj.gov>

Cc: Roualet, Jennie (ATR) <Jennifer.Roualet@usdoj.gov>; Markel, Arianna (ATR) <Arianna.Markel@usdoj.gov>; McLellan, Michael (ATR) <Michael.McLellan@usdoj.gov>; Licht, Sarah (ATR) <Sarah.Licht@usdoj.gov>; Cohen, Alex (ATR) <Alex.Cohen@usdoj.gov>; Sweeney, Bonny (ATR) <Bonny.Sweeney@usdoj.gov>; Huppert, Matthew (ATR) <Matthew.Huppert@usdoj.gov>; Van Kirk, Lorraine (ATR) <Lorraine.VanKirk@usdoj.gov>; Robert.Bernheim@azag.gov; Connor.Nolan@azag.gov; amanda.wentz@arkansasag.gov; paula.gibson@doj.ca.gov; Conor.May@coag.gov; Bryn.Williams@coag.gov; Jon.Sallet@coag.gov; Aric.Smith@coag.gov; kim.mcgee@ct.gov; nicole.demers@ct.gov; rahul.darwar@ct.gov; Adam.Gitlin@dc.gov; Cole.Niggeman@dc.gov; elizabeth.arthur@dc.gov; Liz.Brady@myfloridalegal.com; Istrail, Lee <Lee.Istrail@myfloridalegal.com>; Nicole Sarrine <Nicole.Sarrine@myfloridalegal.com>; Tyler.Kovacs@myfloridalegal.com; Richard.Schultz@ilag.gov; Daniel.Betancourt@ilag.gov; swalker@oag.state.md.us; bwarren@oag.state.md.us; ghonick@oag.state.md.us; Katherine.Krems@mass.gov; William.Matlack@mass.gov; EvansJ@michigan.gov; ComishJ@michigan.gov; ScottL21@michigan.gov; Odette, Elizabeth (MN) <elizabeth.odette@ag.state.mn.us>; zach.biesanz@ag.state.mn.us; Moerke, Katherine (MN) <katherine.moerke@ag.state.mn.us>; LTucker@ag.nv.gov; MBadorine@ag.nv.gov; Zachary.A.Frish@doj.nh.gov; Yale.Leber@law.njoag.gov; Isabella.Pitt@law.njoag.gov; Andrew.Esoldi@law.njoag.gov; Jeremy.Kasha@ag.ny.gov; Amy.McFarlane@ag.ny.gov; Elinor.Hoffmann@ag.ny.gov; Christopher.D'Angelo@ag.ny.gov; Jsutton2@ncdoj.gov; McGhee, Jasmine (NC) <jmcghee@ncdoj.gov>; SBoyce@ncdoj.gov; Sarah.Mader@OhioAGO.gov; Trey.Mehrer@OhioAGO.gov; caleb.smith@oag.ok.gov; Tim.D.Nord@doj.oregon.gov; twertz@attorneygeneral.gov; jbetsko@attorneygeneral.gov; jthomson@attorneygeneral.gov; jdonahue@attorneygeneral.gov; mpacella@attorneygeneral.gov; pmeosky@riag.ri.gov; SProvazza@riag.ri.gov; JLibet@scag.gov; DaniRobertson@scag.gov; sjones@scag.gov; David.McDowell@ag.tn.gov; Hamilton.Millwee@ag.tn.gov; Marilyn.Guirguis@ag.tn.gov; Tyler.Corcoran@ag.tn.gov; kenneth.paxton@oag.texas.gov; Young, Trevor (TX) <Trevor.Young@oag.Texas.Gov>; diamante.smith@oag.texas.gov; THenry@oag.state.va.us; DSmith@oag.state.va.us; CCrenshaw@oag.state.va.us; Rachel.Lumen@atg.wa.gov; douglas.l.davis@wvago.gov; ann.l.haight@wvago.gov; mcfarlanele@doj.state.wi.us; William.Young@wyo.gov; Jesse.Moore@atg.in.gov; Barnhart, Scott <Scott.Barnhart@atg.in.gov>; Corinne.Gilchrist@atg.in.gov; Michaloski, Matthew <Matthew.Michaloski@atg.in.gov>; Jennifer.Linsey@atg.in.gov; noah.goerlitz@ag.iowa.gov; lynette.bakker@ag.ks.gov; KelleyJ@ag.louisiana.gov; GuadamudM@ag.louisiana.gov; Caleb.Pracht@ago.ms.gov; Tricia.Beale@ago.ms.gov; Utley, Crystal <crystal.utley@ago.ms.gov>; Gerald.Kucia@ago.ms.gov; colin.snider@nebraska.gov; justin.mccully@nebraska.gov; JHerrera@nm DOJ.gov; JSakura@nm DOJ.gov; aaron.salberg@state.sd.us; sarah.aceves@vermont.gov; Martin, Marie (UT) <mwmartin@agutah.gov>; Robin.Gushman@lw.com; Tim.O'Mara@LW.com; Al.Pfeiffer@lw.com; Andrew.Gass@lw.com; Jennifer.Giordano@lw.com; Kelly.Fayne@lw.com; Lindsey.Champlin@lw.com; dmarriott@cravath.com; LMoskowitz@cravath.com; jweiss@cravath.com; npeles@cravath.com

Subject: [EXTERNAL] RE: U.S. v. LN - Plaintiffs' Proposed Custodian List

Counsel,

Please see the attached response. Defendants are presently available to meet and confer during the following window on Monday (10/14):

- 3-5 pm ET / 12-2 pm ET

Might a time in that window work for Plaintiffs?

Thanks,
Leah

Leah Wisser

Pronouns: She/Her/Hers

LATHAM & WATKINS LLP

555 Eleventh Street, NW | Suite 1000 | Washington, D.C. 20004-1304
M: +1.860.543.5019
D: +1.202.637.1097

From: Thornburgh, John (ATR) <John.Thornburgh@usdoj.gov>

Sent: Monday, October 7, 2024 6:28 PM

To: Gushman, Robin (Bay Area) <Robin.Gushman@lw.com>; O'Mara, Tim (Bay Area) <Tim.O'Mara@LW.com>; Gass, Andrew (Bay Area) <Andrew.Gass@lw.com>; Giordano, Jennifer (DC) <Jennifer.Giordano@lw.com>; Fayne, Kelly (Bay Area) <Kelly.Fayne@lw.com>; Champlin, Lindsey (DC) <Lindsey.Champlin@lw.com>; Wisser, Leah (DC) <Leah.Wisser@lw.com>; dmarriott@cravath.com; LMoskowitz@cravath.com; jweiss@cravath.com; npeles@cravath.com

Cc: Roualet, Jennie (ATR) <Jennifer.Roualet@usdoj.gov>; Markel, Arianna (ATR) <Arianna.Markel@usdoj.gov>; McLellan, Michael (ATR) <Michael.McLellan@usdoj.gov>; Licht, Sarah (ATR) <Sarah.Licht@usdoj.gov>; Cohen, Alex (ATR) <Alex.Cohen@usdoj.gov>; Sweeney, Bonny (ATR) <Bonny.Sweeney@usdoj.gov>; Huppert, Matthew (ATR) <Matthew.Huppert@usdoj.gov>; Van Kirk, Lorraine (ATR) <Lorraine.VanKirk@usdoj.gov>; Robert.Bernheim@azag.gov; Connor.Nolan@azag.gov; amanda.wentz@arkansasag.gov; paula.gibson@doj.ca.gov; Conor.May@coag.gov; Bryn.Williams@coag.gov; Jon.Sallet@coag.gov; Aric.Smith@coag.gov; kim.mcgee@ct.gov; nicole.demers@ct.gov; rahul.darwar@ct.gov; Adam.Gitlin@dc.gov; Cole.Niggeman@dc.gov; elizabeth.arthur@dc.gov; Liz.Brady@myfloridalegal.com; Istrail, Lee <Lee.Istrail@myfloridalegal.com>; Nicole Sarrine <Nicole.Sarrine@myfloridalegal.com>; Tyler.Kovacs@myfloridalegal.com; Richard.Schultz@ilag.gov; Daniel.Betancourt@ilag.gov; swalker@oag.state.md.us; bwarren@oag.state.md.us; ghonick@oag.state.md.us; Katherine.Krems@mass.gov; William.Matlack@mass.gov; EvansJ@michigan.gov; ComishJ@michigan.gov; ScottL21@michigan.gov; Odette, Elizabeth (MN) <elizabeth.odette@ag.state.mn.us>; zach.biesanz@ag.state.mn.us; Moerke, Katherine (MN) <katherine.moerke@ag.state.mn.us>; LTucker@ag.nv.gov; MBadorine@ag.nv.gov; Zachary.A.Frish@doj.nh.gov; Yale.Leber@law.njoag.gov; Isabella.Pitt@law.njoag.gov; Andrew.Esoldi@law.njoag.gov; Jeremy.Kasha@ag.ny.gov; Amy.McFarlane@ag.ny.gov; Elinor.Hoffmann@ag.ny.gov; Christopher.D'Angelo@ag.ny.gov; Jsutton2@ncdoj.gov; McGhee, Jasmine (NC) <jmcghee@ncdoj.gov>; SBoyce@ncdoj.gov; Sarah.Mader@OhioAGO.gov; Trey.Mehrer@OhioAGO.gov; caleb.smith@oag.ok.gov; Tim.D.Nord@doj.oregon.gov; twertz@attorneygeneral.gov; jbetsko@attorneygeneral.gov; jthomson@attorneygeneral.gov; jdonahue@attorneygeneral.gov; mpacella@attorneygeneral.gov; pmeosky@riag.ri.gov; SProvazza@riag.ri.gov; JLibet@scag.gov; DaniRobertson@scag.gov; sjones@scag.gov; David.McDowell@ag.tn.gov; Hamilton.Millwee@ag.tn.gov; Marilyn.Guirguis@ag.tn.gov; Tyler.Corcoran@ag.tn.gov; kenneth.paxton@oag.texas.gov; Young, Trevor (TX) <Trevor.Young@oag.Texas.Gov>; diamante.smith@oag.texas.gov; THenry@oag.state.va.us; DSmith@oag.state.va.us; CCrenshaw@oag.state.va.us; Rachel.Lumen@atg.wa.gov; douglas.l.davis@wvago.gov; ann.l.haight@wvago.gov; mcfarlanele@doj.state.wi.us; William.Young@wyo.gov; Jesse.Moore@atg.in.gov; Barnhart, Scott <Scott.Barnhart@atg.in.gov>; Corinne.Gilchrist@atg.in.gov; Michaloski, Matthew <Matthew.Michaloski@atg.in.gov>; Jennifer.Linsey@atg.in.gov; noah.goerlitz@ag.iowa.gov; lynette.bakker@ag.ks.gov; KelleyJ@ag.louisiana.gov; GuadamudM@ag.louisiana.gov; Caleb.Pracht@ago.ms.gov; Tricia.Beale@ago.ms.gov; Utley, Crystal <crystal.utley@ago.ms.gov>; Gerald.Kucia@ago.ms.gov; colin.snider@nebraska.gov; justin.mccully@nebraska.gov; JHerrera@nm DOJ.gov; JSakura@nm DOJ.gov; aaron.salberg@state.sd.us; sarah.aceves@vermont.gov; Martin, Marie (UT) <mwmartin@agutah.gov>

Subject: RE: U.S. v. LN - Plaintiffs' Proposed Custodian List

Counsel:

Please see the attached letter. Let us know when this week Defendants are available to meet and confer again regarding proposed custodians. In addition to the proposed custodian list Plaintiffs previously provided, Plaintiffs request that Defendants also be prepared to discuss Max Wein, Gregory Maffei, and Chad Hollingsworth as potential custodians.

John

From: Robin.Gushman@lw.com <Robin.Gushman@lw.com>

Sent: Tuesday, October 1, 2024 11:12 PM

To: Thornburgh, John (ATR) <John.Thornburgh@usdoj.gov>; Tim.O'Mara@LW.com; Andrew.Gass@lw.com; Jennifer.Giordano@lw.com; Kelly.Fayne@lw.com; Lindsey.Champlin@lw.com; Leah.Wisser@lw.com; dmarriott@cravath.com; LMoskowitz@cravath.com; jweiss@cravath.com; npeles@cravath.com

Cc: Roualet, Jennie (ATR) <Jennifer.Roualet@usdoj.gov>; Markel, Arianna (ATR) <Arianna.Markel@usdoj.gov>; McLellan, Michael (ATR) <Michael.McLellan@usdoj.gov>; Licht, Sarah (ATR) <Sarah.Licht@usdoj.gov>; Cohen, Alex (ATR) <Alex.Cohen@usdoj.gov>; Sweeney, Bonny (ATR) <Bonny.Sweeney@usdoj.gov>; Huppert, Matthew (ATR) <Matthew.Huppert@usdoj.gov>; Van Kirk, Lorraine (ATR) <Lorraine.VanKirk@usdoj.gov>; Robert.Bernheim@azag.gov; Connor.Nolan@azag.gov; amanda.wentz@arkansasag.gov; paula.gibson@doj.ca.gov; Conor.May@coag.gov; Bryn.Williams@coag.gov; Jon.Sallet@coag.gov; Aric.Smith@coag.gov; kim.mcgee@ct.gov; nicole.demers@ct.gov; rahul.darwar@ct.gov; Adam.Gitlin@dc.gov; Cole.Niggeman@dc.gov; elizabeth.arthur@dc.gov; Liz.Brady@myfloridalegal.com; Istrail, Lee <Lee.Istrail@myfloridalegal.com>; Nicole Sarrine <Nicole.Sarrine@myfloridalegal.com>; Tyler.Kovacs@myfloridalegal.com; Richard.Schultz@ilag.gov; Daniel.Betancourt@ilag.gov; swalker@oag.state.md.us; bwarren@oag.state.md.us; ghonick@oag.state.md.us; Katherine.Krems@mass.gov; William.Matlack@mass.gov; EvansJ@michigan.gov; ComishJ@michigan.gov; ScottL21@michigan.gov; Odette, Elizabeth (MN) <elizabeth.odette@ag.state.mn.us>; zach.biesanz@ag.state.mn.us; Moerke, Katherine (MN) <katherine.moerke@ag.state.mn.us>; LTucker@ag.nv.gov; MBadorine@ag.nv.gov; Zachary.A.Frish@doj.nh.gov; Yale.Leber@law.njoag.gov; Isabella.Pitt@law.njoag.gov; Andrew.Esoldi@law.njoag.gov; Jeremy.Kasha@ag.ny.gov; Amy.McFarlane@ag.ny.gov; Elinor.Hoffmann@ag.ny.gov; Christopher.D'Angelo@ag.ny.gov; Jsutton2@ncdoj.gov; McGhee, Jasmine (NC) <jmcghee@ncdoj.gov>; SBoyce@ncdoj.gov; Sarah.Mader@OhioAGO.gov; Trey.Mehrer@OhioAGO.gov; caleb.smith@oag.ok.gov; Tim.D.Nord@doj.oregon.gov; twertz@attorneygeneral.gov; jbetsko@attorneygeneral.gov; jthomson@attorneygeneral.gov; jdonahue@attorneygeneral.gov; mpacella@attorneygeneral.gov; pmeosky@riag.ri.gov; SProvazza@riag.ri.gov; JLibet@scag.gov; DaniRobertson@scag.gov; sjones@scag.gov; David.McDowell@ag.tn.gov; Hamilton.Millwee@ag.tn.gov; Marilyn.Guirguis@ag.tn.gov; Tyler.Corcoran@ag.tn.gov; kenneth.paxton@oag.texas.gov; Young, Trevor (TX) <Trevor.Young@oag.Texas.Gov>; diamante.smith@oag.texas.gov; THenry@oag.state.va.us; DSmith@oag.state.va.us; CCrenshaw@oag.state.va.us; Rachel.Lumen@atg.wa.gov; douglas.l.davis@wvago.gov; ann.l.haight@wvago.gov; mcfarlanele@doj.state.wi.us; William.Young@wyo.gov; Jesse.Moore@atg.in.gov; Barnhart, Scott <Scott.Barnhart@atg.in.gov>; Corinne.Gilchrist@atg.in.gov; Michaloski, Matthew <Matthew.Michaloski@atg.in.gov>; Jennifer.Linsey@atg.in.gov; noah.goerlitz@ag.iowa.gov; lynette.bakker@ag.ks.gov; KelleyJ@ag.louisiana.gov; GuadamudM@ag.louisiana.gov; Caleb.Pracht@ago.ms.gov; Tricia.Beale@ago.ms.gov; Utley, Crystal <crystal.utley@ago.ms.gov>; Gerald.Kucia@ago.ms.gov; colin.snider@nebraska.gov; justin.mccully@nebraska.gov; JHerrera@nm DOJ.gov; JSakura@nm DOJ.gov; aaron.salberg@state.sd.us; sarah.aceves@vermont.gov; Martin, Marie (UT) <mwmartin@agutah.gov>

Subject: [EXTERNAL] RE: U.S. v. LN - Plaintiffs' Proposed Custodian List

John,

Attached are the search terms Defendants used to estimate the volume of the "refresh" review set. These are the search terms listed in Live Nation's October 13, 2023 letter to the Division, plus the "priority" search terms requested by the Division during the investigation.

Best,
Robin

Robin L. Gushman

LATHAM & WATKINS LLP

505 Montgomery Street | Suite 2000 | San Francisco, CA 94111-6538
D: +1.415.646.7830

From: Thornburgh, John (ATR) <John.Thornburgh@usdoj.gov>

Sent: Tuesday, October 1, 2024 7:02 AM

To: Gushman, Robin (Bay Area) <Robin.Gushman@lw.com>; O'Mara, Tim (Bay Area) <Tim.O'Mara@LW.com>; Gass, Andrew (Bay Area) <Andrew.Gass@lw.com>; Giordano, Jennifer (DC) <Jennifer.Giordano@lw.com>; Fayne, Kelly (Bay Area) <Kelly.Fayne@lw.com>; Champlin, Lindsey (DC) <Lindsey.Champlin@lw.com>; Wisser, Leah (DC) <Leah.Wisser@lw.com>; dmarriott@cravath.com; LMoskowitz@cravath.com; jweiss@cravath.com; npeles@cravath.com

Cc: Roualet, Jennie (ATR) <Jennifer.Roualet@usdoj.gov>; Markel, Arianna (ATR) <Arianna.Markel@usdoj.gov>; McLellan, Michael (ATR) <Michael.McLellan@usdoj.gov>; Licht, Sarah (ATR) <Sarah.Licht@usdoj.gov>; Cohen, Alex (ATR) <Alex.Cohen@usdoj.gov>; Sweeney, Bonny (ATR) <Bonny.Sweeney@usdoj.gov>; Huppert, Matthew (ATR) <Matthew.Huppert@usdoj.gov>; Van Kirk, Lorraine (ATR) <Lorraine.VanKirk@usdoj.gov>; Robert.Bernheim@azag.gov; Connor.Nolan@azag.gov; amanda.wentz@arkansasag.gov; paula.gibson@doj.ca.gov; Conor.May@coag.gov; Bryn.Williams@coag.gov; Jon.Sallet@coag.gov; Aric.Smith@coag.gov; kim.mcgee@ct.gov; nicole.demers@ct.gov; rahul.darwar@ct.gov; Adam.Gitlin@dc.gov; Cole.Niggeman@dc.gov; elizabeth.arthur@dc.gov; Liz.Brady@myfloridalegal.com; Istrail, Lee <Lee.Istrail@myfloridalegal.com>; Nicole Sarrine <Nicole.Sarrine@myfloridalegal.com>; Tyler.Kovacs@myfloridalegal.com; Richard.Schultz@ilag.gov; Daniel.Betancourt@ilag.gov; swalker@oag.state.md.us; bwarren@oag.state.md.us; gphonick@oag.state.md.us; Katherine.Krems@mass.gov; William.Matlack@mass.gov; EvansJ@michigan.gov; ComishJ@michigan.gov; ScottL21@michigan.gov; Odette, Elizabeth (MN) <elizabeth.odette@ag.state.mn.us>; zach.biesanz@ag.state.mn.us; Moerke, Katherine (MN) <katherine.moerke@ag.state.mn.us>; LTucker@ag.nv.gov; MBadorine@ag.nv.gov; Zachary.A.Frish@doj.nh.gov; Yale.Leber@law.njoag.gov; Isabella.Pitt@law.njoag.gov; Andrew.Esoldi@law.njoag.gov; Jeremy.Kasha@ag.ny.gov; Amy.McFarlane@ag.ny.gov; Elinor.Hoffmann@ag.ny.gov; Christopher.D'Angelo@ag.ny.gov; Jsutton2@ncdoj.gov; McGhee, Jasmine (NC) <jmcghee@ncdoj.gov>; SBoyce@ncdoj.gov; Sarah.Mader@OhioAGO.gov; Trey.Mehrer@OhioAGO.gov; caleb.smith@oag.ok.gov; Tim.D.Nord@doj.oregon.gov; twertz@attorneygeneral.gov; jbetsko@attorneygeneral.gov; jthomson@attorneygeneral.gov; jdonahue@attorneygeneral.gov; mpacella@attorneygeneral.gov; pmeosky@riag.ri.gov; SProvazza@riag.ri.gov; JLibet@scag.gov; DaniRobertson@scag.gov; sjones@scag.gov; David.McDowell@ag.tn.gov; Hamilton.Millwee@ag.tn.gov; Marilyn.Guirguis@ag.tn.gov; Tyler.Corcoran@ag.tn.gov; kenneth.paxton@oag.texas.gov; Young, Trevor (TX) <Trevor.Young@oag.Texas.Gov>; diamante.smith@oag.texas.gov; THenry@oag.state.va.us; DSmith@oag.state.va.us; CCrenshaw@oag.state.va.us; Rachel.Lumen@atg.wa.gov; douglas.l.davis@wvago.gov; ann.l.haight@wvago.gov; mcfarlanele@doj.state.wi.us; William.Young@wyo.gov; Jesse.Moore@atg.in.gov; Barnhart, Scott <Scott.Barnhart@atg.in.gov>; Corinne.Gilchrist@atg.in.gov; Michaloski, Matthew <Matthew.Michaloski@atg.in.gov>; Jennifer.Linsey@atg.in.gov; noah.goerlitz@ag.iowa.gov; lynette.bakker@ag.ks.gov; KelleyJ@ag.louisiana.gov; GuadamudM@ag.louisiana.gov; Caleb.Pracht@ago.ms.gov; Tricia.Beale@ago.ms.gov; Utley, Crystal <crystal.utley@ago.ms.gov>; Gerald.Kucia@ago.ms.gov; colin.snider@nebraska.gov; justin.mccully@nebraska.gov; JHerrera@nmdoj.gov; JSakura@nmdoj.gov; aaron.salberg@state.sd.us; sarah.aceves@vermont.gov; Martin, Marie (UT) <mwmartin@agutah.gov>

Subject: RE: U.S. v. LN - Plaintiffs' Proposed Custodian List

Thanks, Robin. Let's please talk at 4 PM ET on Thursday. I would appreciate it if you would circulate a dial in.

Also, as discussed previously, it would be helpful if you could please send, as soon as possible, the search terms used to come up with the metrics below.

Thanks,

John

From: Robin.Gushman@lw.com <Robin.Gushman@lw.com>

Sent: Monday, September 30, 2024 11:22 PM

To: Thornburgh, John (ATR) <John.Thornburgh@usdoj.gov>; Al.Pfeiffer@lw.com; Tim.O'Mara@LW.com; Andrew.Gass@lw.com; Jennifer.Giordano@lw.com; Kelly.Fayne@lw.com; Lindsey.Champlin@lw.com;

Leah.Wisser@lw.com; dmarrriott@cravath.com; LMoskowitz@cravath.com; jweiss@cravath.com; npeles@cravath.com
Cc: Roualet, Jennie (ATR) <Jennifer.Roualet@usdoj.gov>; Markel, Arianna (ATR) <Arianna.Markel@usdoj.gov>; McLellan, Michael (ATR) <Michael.McLellan@usdoj.gov>; Licht, Sarah (ATR) <Sarah.Licht@usdoj.gov>; Cohen, Alex (ATR) <Alex.Cohen@usdoj.gov>; Sweeney, Bonny (ATR) <Bonny.Sweeney@usdoj.gov>; Huppert, Matthew (ATR) <Matthew.Huppert@usdoj.gov>; Van Kirk, Lorraine (ATR) <Lorraine.VanKirk@usdoj.gov>; Robert.Bernheim@azag.gov; Connor.Nolan@azag.gov; amanda.wentz@arkansasag.gov; paula.gibson@doj.ca.gov; Conor.May@coag.gov; Bryn.Williams@coag.gov; Jon.Sallet@coag.gov; Aric.Smith@coag.gov; kim.mcgee@ct.gov; nicole.demers@ct.gov; rahul.darwar@ct.gov; Adam.Gitlin@dc.gov; Cole.Niggeman@dc.gov; elizabeth.arthur@dc.gov; Liz.Brady@myfloridalegal.com; Istrail, Lee <Lee.Istrail@myfloridalegal.com>; Nicole Sarrine <Nicole.Sarrine@myfloridalegal.com>; Tyler.Kovacs@myfloridalegal.com; Richard.Schultz@ilag.gov; Daniel.Betancourt@ilag.gov; swalker@oag.state.md.us; bwarren@oag.state.md.us; ghonick@oag.state.md.us; Katherine.Krems@mass.gov; William.Matlack@mass.gov; EvansJ@michigan.gov; ComishJ@michigan.gov; ScottL21@michigan.gov; Odette, Elizabeth (MN) <elizabeth.odette@ag.state.mn.us>; zach.biesanz@ag.state.mn.us; Moerke, Katherine (MN) <katherine.moerke@ag.state.mn.us>; LTucker@ag.nv.gov; MBadorine@ag.nv.gov; Zachary.A.Frish@doj.nh.gov; Yale.Leber@law.njoag.gov; Isabella.Pitt@law.njoag.gov; Andrew.Esoldi@law.njoag.gov; Jeremy.Kasha@ag.ny.gov; Amy.McFarlane@ag.ny.gov; Elinor.Hoffmann@ag.ny.gov; Christopher.D'Angelo@ag.ny.gov; Jsutton2@ncdoj.gov; McGhee, Jasmine (NC) <jmcghee@ncdoj.gov>; SBoyce@ncdoj.gov; Sarah.Mader@OhioAGO.gov; Trey.Mehrer@OhioAGO.gov; caleb.smith@oag.ok.gov; Tim.D.Nord@doj.oregon.gov; twertz@attorneygeneral.gov; jbetsko@attorneygeneral.gov; jthomson@attorneygeneral.gov; jdonahue@attorneygeneral.gov; mpacella@attorneygeneral.gov; pmeosky@riag.ri.gov; SProvazza@riag.ri.gov; JLibet@scag.gov; DaniRobertson@scag.gov; sjones@scag.gov; David.McDowell@ag.tn.gov; Hamilton.Millwee@ag.tn.gov; Marilyn.Guirguis@ag.tn.gov; Tyler.Corcoran@ag.tn.gov; kenneth.paxton@oag.texas.gov; Young, Trevor (TX) <Trevor.Young@oag.Texas.Gov>; diamante.smith@oag.texas.gov; THenry@oag.state.va.us; DSmith@oag.state.va.us; CCrenshaw@oag.state.va.us; Rachel.Lumen@atg.wa.gov; douglas.l.davis@wvago.gov; ann.l.haight@wvago.gov; mcfarlanele@doj.state.wi.us; William.Young@wyo.gov; Jesse.Moore@atg.in.gov; Barnhart, Scott <Scott.Barnhart@atg.in.gov>; Corinne.Gilchrist@atg.in.gov; Michaloski, Matthew <Matthew.Michaloski@atg.in.gov>; Jennifer.Linsey@atg.in.gov; noah.goerlitz@ag.iowa.gov; lynette.bakker@ag.ks.gov; KelleyJ@ag.louisiana.gov; GuadamudM@ag.louisiana.gov; Caleb.Pracht@ago.ms.gov; Tricia.Beale@ago.ms.gov; Utley, Crystal <crystal.utley@ago.ms.gov>; Gerald.Kucia@ago.ms.gov; colin.snider@nebraska.gov; justin.mccully@nebraska.gov; JHerrera@nmdoj.gov; JSakura@nmdoj.gov; aaron.salberg@state.sd.us; sarah.aceves@vermont.gov; Martin, Marie (UT) <mwmartin@agutah.gov>

Subject: [EXTERNAL] RE: U.S. v. LN - Plaintiffs' Proposed Custodian List

John,

We are available on Thursday (10/3) between 3:30-5:30 ET to discuss Plaintiffs' proposed custodians.

Here are the document metrics that we covered at Friday's hearing:

- We collected approximately 18 million documents from custodians in connection with Plaintiffs' CIDs.
- That covered 46 DOJ custodians over a five year period – i.e., from approximately January 2017 through January 2023.
- After applying search terms, the review set was approximately 3 million documents. Approximately 1.8 million documents were coded not responsive, approximately 600,000 documents were produced, and approximately 600,000 documents were left over.
- For system emails, we have refreshed the collection for the 46 DOJ CID custodians, and added Matthew Hansen and Russell Wallach. In other words, for the DOJ CID custodians' system emails, we expanded the time period to 2015 to the date of the complaint. For Hansen and Wallach, we collected their system emails from 2015 to the date of the complaint. We then applied the search terms used for the DOJ CID, which resulted in 832,576 documents. Applying the DOJ CID ratio of system email to non-system email documents for these custodians, we estimate that the "refresh" collection will result in approximately 2.2 million documents in the review set.

Best,
Robin

Robin L. Gushman

LATHAM & WATKINS LLP

505 Montgomery Street | Suite 2000 | San Francisco, CA 94111-6538
D: +1.415.646.7830

From: Thornburgh, John (ATR) <John.Thornburgh@usdoj.gov>

Sent: Wednesday, September 25, 2024 8:42 PM

To: Gushman, Robin (Bay Area) <Robin.Gushman@lw.com>; Pfeiffer, Al (Bay Area) <Al.Pfeiffer@lw.com>; O'Mara, Tim (Bay Area) <Tim.O'Mara@LW.com>; Gass, Andrew (Bay Area) <Andrew.Gass@lw.com>; Giordano, Jennifer (DC) <Jennifer.Giordano@lw.com>; Fayne, Kelly (Bay Area) <Kelly.Fayne@lw.com>; Champlin, Lindsey (DC) <Lindsey.Champlin@lw.com>; Wisser, Leah (DC) <Leah.Wisser@lw.com>; dmarrriott@cravath.com; LMoskowitz@cravath.com; jweiss@cravath.com; npeles@cravath.com

Cc: Roualet, Jennie (ATR) <Jennifer.Roualet@usdoj.gov>; Markel, Arianna (ATR) <Arianna.Markel@usdoj.gov>; McLellan, Michael (ATR) <Michael.McLellan@usdoj.gov>; Licht, Sarah (ATR) <Sarah.Licht@usdoj.gov>; Cohen, Alex (ATR) <Alex.Cohen@usdoj.gov>; Sweeney, Bonny (ATR) <Bonny.Sweeney@usdoj.gov>; Huppert, Matthew (ATR) <Matthew.Huppert@usdoj.gov>; Van Kirk, Lorraine (ATR) <Lorraine.VanKirk@usdoj.gov>; Robert.Bernheim@azag.gov; Connor.Nolan@azag.gov; amanda.wentz@arkansasag.gov; paula.gibson@doj.ca.gov; Conor.May@coag.gov; Bryn.Williams@coag.gov; Jon.Sallet@coag.gov; Aric.Smith@coag.gov; kim.mcgee@ct.gov; nicole.demers@ct.gov; rahul.darwar@ct.gov; Adam.Gitlin@dc.gov; Cole.Niggeman@dc.gov; elizabeth.arthur@dc.gov; Liz.Brady@myfloridalegal.com; Istrail, Lee <Lee.Istrail@myfloridalegal.com>; Nicole Sarrine <Nicole.Sarrine@myfloridalegal.com>; Tyler.Kovacs@myfloridalegal.com; Richard.Schultz@ilag.gov; Daniel.Betancourt@ilag.gov; swalker@oag.state.md.us; bwarren@oag.state.md.us; ghonick@oag.state.md.us; Katherine.Krems@mass.gov; William.Matlack@mass.gov; EvansJ@michigan.gov; ComishJ@michigan.gov; ScottL21@michigan.gov; Odette, Elizabeth (MN) <elizabeth.odette@ag.state.mn.us>; zach.biesanz@ag.state.mn.us; Moerke, Katherine (MN) <katherine.moerke@ag.state.mn.us>; LTucker@ag.nv.gov; MBadorine@ag.nv.gov; Zachary.A.Frish@doj.nh.gov; Yale.Leber@law.njoag.gov; Isabella.Pitt@law.njoag.gov; Andrew.Esoldi@law.njoag.gov; Jeremy.Kasha@ag.ny.gov; Amy.McFarlane@ag.ny.gov; Elinor.Hoffmann@ag.ny.gov; Christopher.D'Angelo@ag.ny.gov; Jsutton2@ncdoj.gov; McGhee, Jasmine (NC) <jmcghee@ncdoj.gov>; SBoyce@ncdoj.gov; Sarah.Mader@OhioAGO.gov; Trey.Mehrer@OhioAGO.gov; caleb.smith@oag.ok.gov; Tim.D.Nord@doj.oregon.gov; twertz@attorneygeneral.gov; jbetsko@attorneygeneral.gov; jthomson@attorneygeneral.gov; jdonahue@attorneygeneral.gov; mpacella@attorneygeneral.gov; pmeosky@riag.ri.gov; SProvazza@riag.ri.gov; JLibet@scag.gov; DaniRobertson@scag.gov; sjones@scag.gov; David.McDowell@ag.tn.gov; Hamilton.Millwee@ag.tn.gov; Marilyn.Guirguis@ag.tn.gov; Tyler.Corcoran@ag.tn.gov; kenneth.paxton@oag.texas.gov; Young, Trevor (TX) <Trevor.Young@oag.Texas.Gov>; diamante.smith@oag.texas.gov; THenry@oag.state.va.us; DSmith@oag.state.va.us; CCrenshaw@oag.state.va.us; Rachel.Lumen@atg.wa.gov; douglas.l.davis@wvago.gov; ann.l.haight@wvago.gov; mcfarlanele@doj.state.wi.us; William.Young@wyo.gov; Jesse.Moore@atg.in.gov; Barnhart, Scott <Scott.Barnhart@atg.in.gov>; Corinne.Gilchrist@atg.in.gov; Michaloski, Matthew <Matthew.Michaloski@atg.in.gov>; Jennifer.Linsey@atg.in.gov; noah.goerlitz@ag.iowa.gov; lynette.bakker@ag.ks.gov; KelleyJ@ag.louisiana.gov; GuadamudM@ag.louisiana.gov; Caleb.Pracht@ago.ms.gov; Tricia.Beale@ago.ms.gov; Utley, Crystal <crystal.utley@ago.ms.gov>; Gerald.Kucia@ago.ms.gov; colin.snider@nebraska.gov; justin.mccully@nebraska.gov; JHerrera@nmdoj.gov; JSakura@nmdoj.gov; aaron.salberg@state.sd.us; sarah.aceves@vermont.gov; Martin, Marie (UT) <mwmartin@agutah.gov>

Subject: U.S. v. LN - Plaintiffs' Proposed Custodian List

Counsel:

Please find attached an initial proposed custodian list for Defendants. This is based on our current understanding of Defendants' business and is subject to change as we discuss the proposal with Defendants.

The attached document has three groups of individuals. First, we listed individuals who were custodians during the investigation, and/or whom Defendants listed on their initial disclosures for the litigation. Please note that this group does not include Pasquale Rotella or Troy Suda, neither of whom Plaintiffs are requesting be included as custodians for the litigation at this time. The second group includes new proposed custodians for the litigation, though, we are interested in discussing the parameters of this proposal with Defendants. The third group contains additional newly-proposed custodians, except that for these individuals in particular, Plaintiffs would like to better understand their roles and responsibilities to ascertain their relevance to the claims and defenses at issue in the litigation.

To ensure Plaintiffs are proposing the right custodians, we request that Defendants provide additional information on who inside the Ticketmaster organization has responsibilities for dynamic pricing, including Platinum pricing and Pricemaster pricing. We also request more information about who within Ticketmaster and/or Live Nation has responsibilities for ticketing at Live Nation's amphitheaters, as well as any individuals within Live Nation who may have responsibility for amphitheater tours, as that concept is discussed and described in Live Nation documents.

Please note that for all proposed, and ultimately agreed-upon, custodians, Plaintiffs request that predecessors and successors be included. To the extent a custodian has an administrative assistant or similar support staff responsible for maintaining the custodian's calendar or storing the custodians' documents, we request that those sources be searched as well unless already encompassed in the custodian's files. Consistent with Plaintiffs' Requests for Production, we seek documents from January 1, 2015, through the present, except as otherwise agreed upon by the parties.

Plaintiffs reserve all rights to modify this proposal as we learn more about the roles and responsibilities of Live Nation employees through our custodian negotiations.

Lastly, Plaintiffs reiterate the request we have made several times previously that Defendants provide information regarding important document metrics, including: the number of documents collected during the investigation and covering what time period, the number of documents already collected and hit on search terms previously negotiated during the investigation but not yet produced, and the number of documents reviewed, but not yet produced, in connection with the compulsory process issued by Plaintiffs during the investigation. Providing this information—and other relevant document metrics—will help facilitate our custodian and search term discussions going forward.

Please let us know a time next week when Defendants are available to discuss.

Thanks,

John

John Thornburgh (he/him)
Department of Justice, Antitrust Division
450 Fifth Street, N.W., Suite 7000
Washington, DC 20530
M: 202-803-1168

This email may contain material that is confidential, privileged and/or attorney work product for the sole use of the intended recipient. Any review, disclosure, reliance or distribution by others or forwarding without express permission is strictly prohibited. If you are not the intended recipient, please contact the sender and delete all copies including any attachments.

Latham & Watkins LLP or any of its affiliates may monitor electronic communications sent or received by our networks in order to protect our business and verify compliance with our policies and relevant legal requirements. Any personal

information contained or referred to within this electronic communication will be processed in accordance with the firm's privacy notices and Global Privacy Standards available at www.lw.com.